

SUMMIT LAW GROUP  
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JD 9518  
1/7/02  
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JAN 8 2002  
OFFICE OF REGIONAL COUNSEL  
EPA - REGION X  
Copies  
to  
Gil Hazelbaker  
Sylvia Burger  
Linda Meyer

January 7, 2002

Sent by facsimile and mail

Andrew Boyd  
Assistant Regional Counsel (ORC-158)  
U.S. Environmental Protection Agency  
1200 Sixth Avenue  
Seattle, Washington 98101

Re: Astaris Idaho LLC elemental phosphorus facility  
EPA pond closure approvals

Dear Mr. Boyd:

FMC has received the recent EPA approval of the sections of the Pond 18 closure plan relating to the initial fill phase of closure. The company is committed to carrying out the Pond 18 initial fill during the 2002 construction season as required under the RCRA consent decree.

FMC continues to make preparations for also carrying out the initial fill phase of closure at Pond 17 during the upcoming construction season. Whether FMC will be able to proceed with this project depends on the timing of an EPA decision approving the sections of the Pond 17 closure plan relating to this phase of work.

As you know, while the RCRA consent decree does not specify any time requirements for EPA approval or FMC completion of the initial fill phase of closure at Pond 17, EPA and FMC originally agreed that this work would be done during the 2002 construction season provided that EPA approved the work by December 15, 2001. FMC later agreed to extend that approval date to January 2, 2002.

EPA recently requested a further extension to the Pond 17 initial fill approval date. This letter confirms that FMC agrees to a further extension as described below. Two factors allow FMC to agree to this extension. First, the company has succeeded in extending its option period for the unique equipment required for this work, in particular the Rotec creter crane that would be used for placing the initial sand layer.

1505 WESTLAKE AVE N SUITE 300  
SEATTLE, WASHINGTON 98109  
telephone 206 676-7000  
facsimile 206 676-7001

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Second, FMC has established that it is not necessary to complete the entire scope of the planned initial fill during the 2002 construction season to make the work environmentally protective and viable from an engineering standpoint. Completing the initial fill through placement of the slag layer, as described in the Pond 17 closure plan, is sufficient to provide important environmental benefits. This work would 1) eliminate free water and allow for continued dewatering, 2) substantially reduce pond emissions and 3) promote runoff and reduce potential infiltration into the fill. Covering the slag in 2002 with the final element of the initial fill—the HDPE interim cover system—becomes problematic given further extensions to the EPA approval. This is due to the fact that extensions affect the construction schedule and push the HDPE installation toward the end of the construction season where precipitation and freezing conditions that bar HDPE placement might occur. But installing the HDPE cover by the end of the construction season is not essential from an engineering or environmental standpoint. Completing the initial fill through placement of the slag layer would protect the interim fill integrity and provide the environmental benefits described above. The HDPE interim cover system would be placed at the beginning of the next construction season if not installed in 2002.

Based on these factors FMC makes the following commitments:

- If EPA approves the initial fill phase of closure at Pond 17 by January 18, 2002, FMC will complete the initial fill through placement of the slag layer as described in the closure plan by the end of the 2002 construction season. FMC also will use its best efforts to complete placement of the HDPE interim cover during the 2002 construction season. EPA approval in this time frame pushes the last stages of work to the end of the construction season, increasing the potential for adverse weather-related impacts on HDPE installation. FMC nevertheless believes that the HDPE interim cover probably could be placed in 2002 if EPA approves the initial fill by January 18.
- If EPA approves the initial fill phase of the Pond 17 closure after January 18 and before close of business February 1, 2002, FMC similarly will complete the initial fill through placement of the slag fill layer by the end of the 2002 construction season and use its best efforts to complete placement of the HDPE interim cover by the same time. EPA approval in this time frame, however, would push the last stages of work beyond the end of the normal construction season and given the sensitivity of HDPE cover installation to precipitation and freezing conditions would make it unlikely that the HDPE cover could be installed in 2002.

FMC hopes that the above commitments are helpful in EPA's review and approval of the initial fill phase at Pond 17. Please do not hesitate to contact me if

Letter to Andrew Boyd

January 7, 2002

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you have any questions regarding these commitments or the specific impacts EPA approval dates have on the initial fill construction schedule.

Very truly yours,

A handwritten signature in blue ink that reads "David M. Heineck". The signature is written in a cursive style with a large, stylized 'D' and 'H'.

David M. Heineck

cc: Linda Meyer, EPA Region 10  
Rob Hartman, FMC  
Mike Kostanian, Bechtel

**SUMMIT LAW GROUP  
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**To:** Andy Boyd **From:** Cheryl for David Heineck  
Office of Regional Counsel, EPA Region 10

**Fax:** 553-0163 **Pages:** 4

**Phone:** 553-1222 **Date:** 1/7/02 2:10 PM

**Subject:** Please see attached letter.



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FMC continues to make preparations for also carrying out the initial fill phase of closure at Pond 17 during the upcoming construction season. Whether FMC will be able to proceed with this project depends on the timing of an EPA decision approving the sections of the Pond 17 closure plan relating to this phase of work.

As you know, while the RCRA consent decree does not specify any time requirements for EPA approval or FMC completion of the initial fill phase of closure at Pond 17, EPA and FMC originally agreed that this work would be done during the 2002 construction season provided that EPA approved the work by December 15, 2001. FMC later agreed to extend that approval date to January 2, 2002.

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Based on these factors FMC makes the following commitments:

- If EPA approves the initial fill phase of closure at Pond 17 by January 18, 2002, FMC will complete the initial fill through placement of the slag layer as described in the closure plan by the end of the 2002 construction season. FMC also will use its best efforts to complete placement of the HDPE interim cover during the 2002 construction season. EPA approval in this time frame pushes the last stages of work to the end of the construction season, increasing the potential for adverse weather-related impacts on HDPE installation. FMC nevertheless believes that the HDPE interim cover probably could be placed in 2002 if EPA approves the initial fill by January 18.
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FMC hopes that the above commitments are helpful in EPA's review and approval of the initial fill phase at Pond 17. Please do not hesitate to contact me if

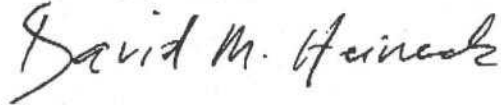
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